

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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OFFICE OF THE SECRETARY

In the Matter of )

Implementation of the Local Competition )  
Provisions in the Telecommunications Act )  
of 1996 )

CC Docket No. 96-98

COMMENTS OF TELIGENT, INC.

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**COMMENTS OF TELIGENT, INC.**

Teligent, Inc. ("Teligent") hereby submits its Comments in response to the Commission's Fourth Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

Teligent limits its comments to two very specific but very important points. First, it seeks Commission clarification that CLECs need not collocate at ILEC switch facilities in order to purchase EELs from ILECs for the purpose of providing local exchange service to customers. Second, where a telecommunications carrier presently purchases special access services from an ILEC out of the ILEC's intrastate tariff, Teligent seeks a Commission presumption that those special access services are used in the provision of local exchange service. This will facilitate the conversion by a telecommunications

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<sup>1</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) ("Third R&O and Fourth FNPRM").

carrier of intrastate special access services to EELs for the purpose of providing local exchange service.

**II. COLLOCATION AT AN ILEC SWITCH SHOULD NOT BE A PREREQUISITE FOR A CLEC'S PURCHASE OF EELs ON AN UNBUNDLED BASIS.**

Although the Commission declined to define the enhanced extended link ("EEL") as a separate network element in its Third Report and Order,<sup>2</sup> it nevertheless concluded that ILECs "may not separate loop and transport elements that are currently combined and purchased through the special access tariffs."<sup>3</sup> The Commission also noted that ILECs "routinely combine loop and transport elements for themselves" and "routinely provide the functional equivalent of the EEL through their special access offerings."<sup>4</sup> Teligent supports the Commission's belief that "the reasoning of the Supreme Court's decision to reinstate rule 51.315(b) based on the nondiscrimination language of section 251(c)(3) applies equally to rules 51.315(c)-(f)," that is, that the ILEC must provide access at least equal in quality to that which it provides to itself.<sup>5</sup>

Given the Commission's statements, ILECs are required to provide telecommunications carriers access to EELs on an unbundled basis in the large majority of circumstances. Teligent is of the understanding that where ILECs must provide EELs on an

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<sup>2</sup> Id. at ¶ 478.

<sup>3</sup> Id. at ¶ 480.

<sup>4</sup> Id. at ¶ 481.

<sup>5</sup> Id.

unbundled basis, the provisioning is not dependent upon a telecommunications carrier collocating at an ILEC's switch. The Commission's conclusions in the BellSouth Louisiana II Order support Teligent's interpretation. There, the Commission explained that "BellSouth's offering in Louisiana of collocation as the sole method for combining unbundled network elements is inconsistent with section 251(c)(3)."<sup>6</sup> The requirement is not extraordinary. For example, in its Texas 271 Application recently filed with the Commission, Southwestern Bell noted that it already provides EELs to CLECs without the need for collocation.<sup>7</sup>

Nevertheless, some statements in the Third Report and Order and the Supplemental Order could be misinterpreted to contain a requirement that telecommunications carriers must collocate at ILEC switches before they can purchase EELs from the ILEC. For example, the Third Report and Order states that "any requesting carrier that is collocated in a serving wire center is free to order loops and transport to that serving wire center as unbundled network elements because those elements meet the

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<sup>6</sup> Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana, CC Docket No. 98-121, *Memorandum Opinion and Order*, 13 FCC Rcd 20599 at ¶ 168 (1998).

<sup>7</sup> Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Texas, CC Docket No. 00-4, Affidavit of Michael C. Auinbauh at ¶ 93 (filed Jan. 10, 2000).

unbundling standard . . . ."<sup>8</sup> Similarly, the Supplemental Order states that its holding "does not affect the ability of competitive LECs that are collocated and have self-provided transport (or obtained it from third parties), but are purchasing unbundled loops, to provide exchange access service."<sup>9</sup>

The Communications Act contemplates different methods of interconnection,<sup>10</sup> collocation being just one method.<sup>11</sup> To date, Teligent has employed an entrance facility interconnection. It should not suffer discrimination because it has chosen a facilities-based method of interconnection other than collocation. More specifically, a carrier should not be forced to collocate merely for the purpose of purchasing EELs on an unbundled basis.

The Commission itself recognizes that "[e]xperience over the last year demonstrates that incumbent LECs have refused to provide access to network elements so that competitors could combine them, except in situations where competitive LECs have collocated in the incumbent's central offices."<sup>12</sup> Consequently, clarity in this area is warranted. Teligent seeks from the

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<sup>8</sup> Third R&O and Fourth NPRM at ¶ 486 (emphasis added).

<sup>9</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Supplemental Order FCC 99-370 at ¶ 5 (rel. Nov. 24, 1999) ("Supplemental Order") (emphasis added).

<sup>10</sup> 47 U.S.C. § 251(c)(2).

<sup>11</sup> 47 U.S.C. § 251(c)(6).

<sup>12</sup> Third R&O and Fourth NPRM at ¶ 482.

Commission a clarifying statement that where an ILEC is under the obligation to provide EELs to CLECs on an unbundled basis for purposes of local exchange service, CLECs need not be collocated at the ILEC switch in order to purchase the EELs on an unbundled basis.

**III. WHERE A CLEC PURCHASES SPECIAL ACCESS FROM ILEC INTRASTATE TARIFFS, IT SHOULD BE PRESUMED THAT LOCAL EXCHANGE SERVICES ARE PROVIDED OVER THOSE LINES.**

The Commission's Supplemental Order permits ILECs to constrain the use of combinations of unbundled loops and transport network elements as a substitute for special access service due to the potentially significant effects that such activities by IXCs could have on ILEC interstate access charge revenues.<sup>13</sup> The Commission makes clear that its conclusion "does not affect the ability of competitive LECs to use combinations of loops and transport . . . to provide local exchange service."<sup>14</sup>

To facilitate implementation of the terms of the Supplemental Order, the Commission adopted a presumption that "the requesting carrier is providing significant local exchange service if the requesting carrier is providing all of the end user's local exchange service."<sup>15</sup> The Commission also found traffic auditing processes to be unnecessary and expect that carrier self-certification would suffice for purposes of the

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<sup>13</sup> Supplemental Order at ¶ 4.

<sup>14</sup> Id. at ¶ 5.

<sup>15</sup> Id. at n.9.

limited constraint adopted in the Supplemental Order.<sup>16</sup> Still, the Commission recognizes the possibility of ILECs unreasonably delaying the ability of requesting carriers to convert unbundled loops and transport network element combinations to UNE pricing and promises swift enforcement action should such a scenario occur.<sup>17</sup>

Teligent supports the Commission's desire to minimize disputes and related delays surrounding the conversion of EELs to UNE pricing. Indeed, the Commission previously has adopted presumptions in this docket in order to "facilitate the negotiation and mutual performance of fair, pro-competitive [pole attachment] access agreements."<sup>18</sup> A similar approach is warranted in the instant matter. For the duration of the constraint adopted in the Supplemental Order, Teligent requests that the Commission declare that if a CLEC purchases special access out of an ILEC's intrastate tariffs, the services that the carrier is providing over those lines are presumed to be local. As a result, such CLECs should be permitted to convert intrastate access lines to UNE pricing within thirty days of a request where the ILEC is required to provide EELs on an unbundled basis. This finding would further reduce the potential for disputes between ILECs and CLECs and minimize provisioning delays.

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<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd 15499 at ¶ 1143 (1996).



#### IV. CONCLUSION

For the foregoing reasons, Teligent requests the Commission to clarify that CLEC collocation at an ILEC switch is not a prerequisite to purchasing EELs from ILECs on an unbundled basis and to declare that where a CLEC purchases special access out of an ILEC's intrastate tariffs, the services that the CLEC provides over those lines is presumed to be local.

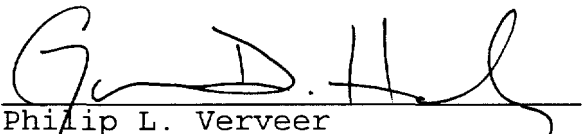
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Dated: January 19, 2000

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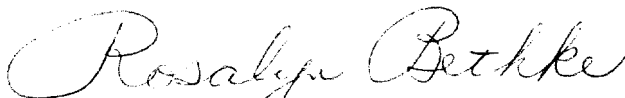
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